



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 24 2004

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Allan F. Bedwell
Deputy Secretary for Regulatory Programs
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Enforcement Discretion Concerning Diesel Fuel in Florida

Dear Mr. Bedwell:

I am writing in response to Florida Department of Environmental Protection's request that the United States Environmental Protection Agency (EPA) extend for four additional days the exercise of enforcement discretion concerning diesel fuel in Florida. In addition, you have requested this extension only for retail or wholesale facilities that normally receive diesel fuel from Port Everglades, Florida that are located in St. Lucie, Martin, Palm Beach, Broward, Dade, Monroe, Collier, Hendry, Glades, Charlotte or Lee counties (the affected Florida counties).

As you know, due to the hurricanes that have struck Florida this year there has been a shortage of undyed, low sulfur motor vehicle diesel fuel in Florida. Because of this shortage, on September 2, 2004, EPA exercised enforcement discretion to allow temporary use of motor vehicle diesel fuel having a visible evidence of red dye and a sulfur content exceeding 500 parts per million (ppm) until midnight, September 7, 2004. This enforcement discretion was extended until midnight, September 24, 2004.

Because of the current and expected shortage of motor vehicle diesel fuel meeting the 500 ppm sulfur standard in the affected Florida counties, EPA will exercise its enforcement discretion to temporarily allow regulated parties to supply motor vehicle diesel fuel having a sulfur content greater than 500 ppm with visible evidence of red dye, to facilities that normally receive diesel fuel from Port Everglades, Florida that are located in the affected Florida counties. This exercise of enforcement discretion is effective immediately and will continue until midnight on Tuesday, September 28, 2004. However, retail outlets or wholesale purchaser-consumers that receive motor vehicle diesel fuel having a sulfur content greater than 500 ppm with visible evidence of red dye under the terms of this discretion may continue selling or dispensing this fuel after September 28, 2004, until their supplies are depleted.

To the extent practicable, regulated parties must take all reasonable steps to provide

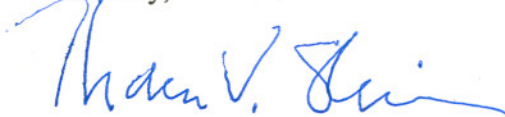
compliant diesel fuel for use within the affected Florida counties. Thus, regulated parties must use compliant fuel that is available before using any non-compliant fuel, and regulated parties who transport fuel into the State of Florida must take reasonable steps to transport enough compliant fuel to meet expected demand.

If a regulated party elects to supply motor vehicle diesel fuel having a sulfur content greater than 500 ppm in the above-named counties to retail outlets or wholesale facilities under this letter, the party must submit a written report to EPA no later than November 15, 2004, which indicates the total volume of motor vehicle diesel fuel supplied to these retailers and wholesale facilities pursuant to this waiver, on a per day basis. These reports must be sent to the following address:

Adam Kushner, Acting Director
Air Enforcement Division
Mail Code 2242A
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

If you have questions, please call Mr. George Lawrence, Chief, Mobile Source Enforcement Branch, at (202) 564-1307.

Sincerely,



Thomas V. Skinner
Acting Assistant Administrator